IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWELTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE GOPALA KRISHNA TAMADA

WRIT PETITION NO : 4674 of 1993

Between:

S.Butool Fattima, D/o. Syed Hafeezuddin, R/o. Do dhbowli, Hyderabad.

..... PETITIONER

AND

1 Director of School Education, A.P. ,Hyderabad.
2 Dist Educational Officer, A.P, Hyderabad.
3 Correspondent & Hon,Secretary, Khiyaban Girls High School, Mangalhat ,Hyderabad.
4 Mohd.Abdul Rais Khan, S/o. Md. Abdul Hameed Khan, R/o. 14-2-393 Daru Salam, Razackpura, Hyderabad.
5 Govt. of A.P. by it's Secretary, Education Department, Secretariat, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction and more particularly one in the nature of writ of Mandamus by calling for the records relating to the impugned order R.C.No.23010/D1/90 dt.23-1-1993 and declare the same as without jurisdiction and set aside the same; declare the appointment of Respondent No.4 as illegal; and declare that the Petitioner was appointed on Compassionate grounds in the only existing vacancy and direct the Respondents to approve her appointment as Record Assistant with effect from 12-9-1990 by granting all consequential benefits Viz , arrears of salary etc.

For the Petitioner: MR.MIRZASAFIULLA BAIG, Advocate

For the Respondent Nos. 1, 2 and 5: G.P. FOR SCHOOL EDUCATION

For the Respondent No.3 : Mr. Zaheer-ul-Haq, Advocate

For the respondents 4 : None appeared

The Court made the following :

ORAL ORDER

This Writ Petition is filed by the petitioner seeking a direction in the nature of Mandamus to call for the records relating to the impugned order Rc. No. 23010/D1/90, dated 23.01.1993, as without jurisdiction and set aside the same, and to declare the appointment of 4th respondent as illegal and consequently to continue the petitioner, who was appointed as Record Assistant on compassionate grounds in the existing vacancy, with effect from her initial appointment i.e. 12.09.1990 by granting all consequential benefits.

The case of the petitioner is that the mother of the petitioner, who was working in 3rd respondent-school as Craft Teacher, died in harness, on 28.8.1989, and on account of which the 3rd respondent appointed the petitioner as Record Assistant on compassionate grounds vide its proceedings dated 12.09.1990. However, in view of the orders passed by this Court in W.P.No. 16302 of 1990 dated 20.02.1991 filed by the 4th respondent i.e. Mohd. Abdul Rias Khan, the 2nd respondent had issued proceedings in Rc. No. 23010/D1/90 dated 23.1.1993 stating that the case of the petitioner for appointment as Record Assistant on compassionate grounds is not feasible, as there is only one post of Record Assistant in the 3rd respondent-school and, thus, the petitioner was not continued as Record Assistant from the date of the said proceedings. At that juncture, the petitioner has approached this Court and filed the present writ petition seeking the above relief.

Heard the learned counsel appearing on either side.

The 3rd respondent was directed to find out the vacancy position and on instructions, he reported that two posts of Record Assistants are vacant in the 3rd respondent-school, and it is further submitted by the counsel for 3rd respondent that the 4th respondent was never appointed as Record Assistant in the 3rd respondent-school.

In the light of the above submission that two posts of Record Assistants are vacant, and the 4th respondent was never appointed as Record Assistant in the said school, I deem it appropriate to direct the 3rd respondent-management to consider the case

of the petitioner for appointment as a Record Assistant as a fresher.

This writ petition is, accordingly, disposed of. No costs.

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12th August, 2004

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ASST. REGISTRAR

//TRUE COPY//

SECTION OFFICER

To

1. The Director of School Education, A.P. Hyderabad,
2. The District Educational Officer, Hyderabad District, Hyderabad.
3. The Correspondent & H:on. Secretary, Khiyaban Girls High School, Mangalhat, Hyderabad
4. The Secretary, Education Department, Govt. of A.P. Secretariat, Hyderabad,
5. 2 CCs to Govt. Pleader for School Education, High Court Buildings, Hyderabad (OUT)
6. 2 CD copies.